

**MANNING CURTIS BRADSHAW  
& BEDNAR PLLC**

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Court-Appointed Receiver of U.S. Ventures, LC,  
Winsome Investment Trust, and the assets of Robert  
J. Andres and Robert L. Holloway*

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UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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U.S. COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

vs.

U.S. VENTURES LC, a Utah limited liability  
company, WINSOME INVESTMENT  
TRUST, an unincorporated Texas entity,  
ROBERT J. ANDRES and ROBERT L.  
HOLLOWAY,

Defendants.

**FEE APPLICATION FOR RECEIVER  
AND RECEIVER'S COUNSEL FOR  
SERVICES RENDERED FROM  
SEPTEMBER 1, 2015 THROUGH  
JUNE 30, 2016**

Case No. 2:11CV00099 BSJ

District Judge Bruce S. Jenkins

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R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") of U.S. Ventures LC ("USV"), Winsome Investment Trust ("Winsome"), and all the assets of Robert J. Andres ("Andres") and Robert L. Holloway ("Holloway"), (collectively, the "Receivership Entities") hereby submit this Fee Application, seeking payment for the fees and expenses of Receiver and

Receiver's Legal Counsel for the period of September 1, 2015 through June 30, 2016.

### **BACKGROUND**

1. This action commenced on January 24, 2011 with the filing of an enforcement action by the Commodity Futures Trading Commission ("CFTC") alleging that US Ventures, Winsome, Andres, and Holloway were operating fraudulent commodity investment programs in violation of federal commodities laws. The Receiver was appointed the next day. (Docket No. 15.)

2. Since imposition of the Statutory Restraining Order in January 2011, the Court has entered a variety of additional orders against the defendants, imposing preliminary injunctions and entering defaults.

3. The Receiver and his counsel have expended much time and energy investigating the affairs of US Ventures, Winsome, Holloway, and Andres, pursuing recoveries on behalf of the investors in US Ventures and Winsome, and responding to claims made on the receivership estate through the claims process.

4. The Receiver and his counsel have moved the Court for their fees and expenses on December 15, 2011 (Docket No. 90), March 6, 2012 (Docket No. 112.), May 31, 2012 (Docket No. 161), August 14, 2012 (Docket No. 188), December 17, 2012 (Docket No. 230), April 3, 2013 (Docket No. 254), May 31, 2013 (Docket No. 272), October 9, 2013 (Docket No. 300), April 4, 2013 (Docket No. 227), September 23, 2014 (Docket No. 389), March 12, 2015 (Docket No. 407); and September 11, 2015 (Docket No. 420).

5. At the time the Receiver took over the affairs of US Ventures and Winsome, they had no assets. Along the same lines, Holloway and Andres claimed to have no income or assets.

6. During this ten-month fee application period, from September 1, 2015 until June 30, 2016, the Receiver has recovered \$27,393.55, consisting of \$135.43 in bank interest and \$27,258.12 in settlement payments collections on judgments. In addition, the Receiver expects to receive an additional \$183,500.00 from the Widmark settlement and \$12,698.70 from the Nguyen judgment. The Receiver also received \$250.00 in criminal restitution payments from Mr. Holloway, which he is holding for later distribution.

7. The Receiver now requests that he and his legal counsel, Manning Curtis Bradshaw & Bednar, PLLC, receive payment for work performed during the ten-month period from September 1, 2015 to June 30, 2016.

#### **SERVICES PERFORMED**

8. The Receiver has filed 21 status reports with the Court. These reports were filed on March 25, 2011 (Docket No. 47), June 21, 2011 (Docket No. 66), September 26, 2011 (Docket No. 74), December 29, 2011 (Docket No. 94), March 23, 2012 (Docket No. 124), June 22, 2012 (Docket No. 169), September 26, 2012 (Docket No. 216), December 26, 2012 (Docket No. 235), April 29, 2013 (Docket No. 261), August 9, 2013 (Docket No. 292), October 22, 2013 (Docket No. 303), February 10, 2014 (Docket No. 327), April 29, 2014 (Docket No. 347), August 12, 2014 (Docket No. 382), October 27, 2014 (Docket No. 402), January 29, 2015 (Docket No. 405), April 30, 2015 (Docket No. 418), July 28, 2015 (Docket No. 419); November 2, 2015 (Docket No. 424), February 9, 2016 (Docket No. 432), and June 3, 2016 (Docket No. 435). In these status reports, the Receiver has outlined the efforts he and his counsel have expended in various matters relating to the Receivership Defendants.

9. During the Fee Application Period, the Receiver, the Receiver's professionals,

and counsel for the Receiver have focused their efforts in five areas:

a. Control, Disposition of Real Estate. The Receiver took control of the residence of Robert and Ursula Andres and maintained it until it could be turned over to the lienholder in a foreclosure action. After the foreclosure sale, the Receiver negotiated an allocation of proceeds with the lender, receiving \$16,734.89 for the Receivership Estate;

b. Litigation and Civil Appeals. The Receiver obtained final judgment in his lawsuit against the final fraudulent transfer defendant (Widmarks). The Widmarks initially filed an appeal, then reached a settlement with the Receiver—which was approved by the Court. The Receiver recorded a mortgage against real estate owned by the Widmarks as security for their agreement to pay the settlement amount. The Receiver also was successful in the appeal by Roberto Penedo—the last civil appeal from the Receivership.

c. Collection on Judgments. In addition to funds received from the Widmarks, the Receiver collected funds on prior judgments against Ravkind Associates and Warren Chiu. Funds are expected soon from Nguyen.

d. Criminal Restitution, Appeal. The Receiver has received \$250.00 in criminal restitution from Robert Holloway. His criminal conviction was affirmed by the Tenth Circuit on June 20, 2016 and the Receiver is working with the Department of Justice to determine whether the DOJ wants the Receiver to distribute civil forfeiture funds the agency is holding.

e. Distribution. The Court approved a second distribution on December 9, 2015. The Receiver distributed \$614,715.45 to allowed claimants during the fee application period. All distribution checks have been cashed.

**STATUS OF THE RECEIVERSHIP BANK ACCOUNT**

10. As of June 30, 2016, the Receivership bank account had \$93,858.35.<sup>1</sup> This bank balance will allow payment of the current application for Receiver fees and counsel fees while still leaving sufficient funds in the Receivership account to operate the Receivership Estate while final recoveries are collected and plans are made for a final distribution and termination of the Receivership Estate.<sup>2</sup>

**REQUEST FOR COURT APPROVAL OF FEES AND EXPENSES**

11. The Order Granting the Statutory Restraining Order provides:

The Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, from the assets now held by, or in the possession or control of, or which may be received by the Defendants. The Receiver shall file with the Court and serve on the parties, including the Commission, periodic requests for the payment of such reasonable compensation, with the first such request filed no more than one hundred and twenty (120) days after the date of this Order. The Commission may object to any part of a request within thirty (30) calendar days of service of a request. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

Order at p. 14, ¶ 33 (dkt. # 15).

12. This Application is being submitted pursuant to these provisions.

**Summary of Legal Fees and Expenses Incurred**

13. Through this Application, Manning Curtis Bradshaw & Bednar PLLC, the Receiver's counsel, is requesting approval of compensation for services provided to and

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<sup>1</sup> This does not include \$650.00 in criminal restitution funds from Robert Holloway being held in a savings account.

<sup>2</sup> The Receiver hopes this can be accomplished before the end of 2016.

reimbursement of expenses incurred for operation of the Receivership Estate between September 1, 2015 and June 30, 2016 in the amounts described below.

14. During these ten months, Manning Curtis Bradshaw & Bednar PLLC is seeking payment for legal services provided to the Receiver in the amount of \$25,740.00, and advanced expenses of \$3,388.74. The legal fees and expenses related to eight different billing matters. All of these billing matters except for one apply to particular lawsuits prepared or filed by Manning Curtis Bradshaw & Bednar PLLC. The following categories of expenses were incurred in connection with this litigation:

- a. Computer research: \$3,351.74
- b. Photocopies: \$34.00
- c. Messenger services: \$3.00

15. Exhibit A contains a summary of the fees and expenses incurred for each of the billing matters. Detailed invoices describing the work performed by Manning Curtis Bradshaw & Bednar PLLC on a daily basis, as well as detailed lists of expenses incurred, are attached as Exhibit B. Counsel for the Receiver has also discounted the amount he is seeking for repayment in the amount of \$2,000.00 for work he and his associates have performed on a matter involving legal research in October 2015 involving briefing on prejudgment interest.

16. The Receiver is also seeking reimbursement for his fees and the work of his staff for the period from September 1, 2015 to June 30, 2016. During this time period, the Receiver is seeking payment for fees in the amount of \$15,083.00 for 52.7 hours of his work and 15.9 hours of work by employees of Klein & Associates. The Receiver and his staff also performed an additional 11.1 hours of work on this case which was not billed, which work is valued at

\$2,541.00. The Receiver's fee invoices are summarized in Exhibit A. A detailed time summary of the work of the Receiver and his staff is in Exhibit B.

**CONCLUSION**

The Receiver respectfully submits this Fee Application for payment of fees and expenses incurred by the Receiver and Manning Curtis in providing to the Receiver the services that are summarized in Exhibit A, and that are more fully detailed in Exhibit B.

A proposed Order is attached hereto as Exhibit C.

Pursuant to paragraph 32 of the order appointing the Receiver, the Court should wait thirty days before ruling on this application, to give the CFTC an opportunity to determine whether it wishes to express any objections.

The Receiver and Manning Curtis Bradshaw & Bednar PLLC verify under penalty of perjury that the foregoing is true and correct.

DATED this 13th day of July, 2016.

/s/ Wayne Klein

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WAYNE KLEIN, Receiver  
*(Signed by Filing Attorney with Permission of Receiver)*

MANNING CURTIS BRADSHAW  
& BEDNAR, PLLC

/s/ David C. Castleberry

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David C. Castleberry  
*Attorneys for R. Wayne Klein, Receiver*

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing **FEE APPLICATION FOR RECEIVER AND RECEIVER'S COUNSEL FOR SERVICES RENDERED FROM SEPTEMBER 1, 2015 THROUGH JUNE 30, 2016** to be served in the method indicated below to the Defendant in this action this 13th day of July, 2016.

VIA FACSIMILE  
 VIA HAND DELIVERY  
 VIA U.S. MAIL  
 VIA FEDERAL EXPRESS  
 VIA EMAIL  
 VIA ECF

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